IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 21142 of 2004(P)

AGAINST THE ORDER DATED 16/07/2004 IN OS 135 2003 IN IA.2948/2004 of PRINCIPAL SUB COURT,ERNAKULAM

PETITIONER:

K.R.ASITHA, W/O.LATE VENUGOPAL,
EROOR VASUDEVA ROAD JUNCTION, NORTH JANATHA ROAD,
EDAPPALLY VILLAGE, NOW RESIDING AT LAKSHMI
BHAVAN, HOUSE NO. 49/2007, DEVANKULANGARA,
EDAPPALLY, KOCHI 682 024.

BY ADV. SRI.M.P.RAMNATH

RESPONDENTS:

1. MULLOOR CHITIES, A REGISTERED
PARTNERSHIP FIRM, HAVING OFFICE AT MARKET ROAD,
KOCHI CORPORATION LIMITS, ERNAKULAM,
REPRESENTED BY ITS MANAGING PARTNER.

2. MARIYAM, W/O.SAMARIYIL JOY, RESIDING
AT HOUSE NO. 6A/6 30 B, VIKAS NAGAR,
MARADU.

3. SREEJITH, S/O. LATE VENUGOPAL,
EROOR VASUDEVA ROAD JUNCTION, NORTH JANATHA
ROAD, EDAPPALLY VILLAGE, NOW RESIDING AT
LAKSHMI BHAVAN, HOUSE NO. 49/2007,
DEVANKULANGARA, EDAPPALLY, KOCHI 682 024.

4. LAKSHMI, D/O.LATE VENUGOPAL,
EROOR VASUDEVA ROAD JUNCTION, NORTH
JANATHA ROAD, EDAPPALLY VILLAGE, NOW RESIDING
AT LAKSHMI BHAVAN, HOUSE NO. 49/2007,
DEVANKULANGARA, EDAPPALLY, KOCHI 682 024.

BY ADV. SRI.BIJU JOSEPH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	TRUE PHOTOSTAT COPY OF THE I.A.2948/2004 IN O.S.135/2003 BEFORE THE PRINCIPAL SUB COURT, ERNAKULAM DTD.2.6.2004(WRONGLY SHOWN IN EXT. AS 24.7.2004).
EXT.P2	TRUE PHOTOSTAT COPY OF THE COUNTER AFFIDAVIT IN I.A.2948/2004 IN O.S.135/2003 BEFORE THE PRINCIPAL SUB COURT, ERNAKULAM TD.26.6.2004.
EXT.P3	TRUE PHOTOSTAT COPY OF ORDER DTD.2.7.2004 IN I.A.2948/2004 IN O.S.135/2003 BEFORE THE PRINCIPAL SUB COURT, ERNAKULAM.

TRUE COPY

P.A.TO JUDGE

PIUS C.KURIAKOSE,J

W.P.(C)NO.21142 of 2004

Dated this the 31st day of July, 2007

JUDGMENT

Notwithstanding the strenuous submissions of the learned counsel for the petitioner Sri.M.P.Ramnath, I am unable to agree that Ext.P3 order of the subordinate Judge is vitiated to the extent of warranting correction by this court under its supervisory jurisdiction. At the same time I feel that the learned Subordinate Judge was not justified in allowing the application filed by the respondents after the entire evidence of the plaintiff was over, straight away without imposing any conditions. Therefore, even as I approve Ext.P3, I make Ext.P3 conditional on the first respondent paying a sum of Rs.2,000/= by way of cost to the petitioner either directly or through his counsel in this court within one month from today. If cost is paid, Ext.P3 will stand confirmed. If cost is not paid, Ext.P3 will stand set aside and Ext.P1 (I.A.) will stand dismissed.

PIUS C.KURIAKOSE,
JUDGE

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